



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,226	03/30/2004	Andreas Raabe	SCHWP0186USA	7171
7590 08/15/2008 RENNER, OTTO, BOISSELLE & SKLAR, LLP Nineteenth Floor 1621 Euclid Avenue Cleveland, OH 44115-2191				
EXAMINER ROZANSKI, MICHAEL T				
ART UNIT		PAPER NUMBER		
3768				
MAIL DATE		DELIVERY MODE		
08/15/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/815,226

**Applicant(s)**

RAABE ET AL.

**Examiner**

MICHAEL ROZANSKI

**Art Unit**

3768

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

Applicant is reminded to use correct claim status identifiers (see claim 1).

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by  
Cosman (US 6,006,126).

Cosman discloses a system and method for stereotactic registration of image scan data including determining a positional relationship of the probe 1 to the head H by combining position data on the probe 1 with data from some imaging means such as CT, MRI, or X-ray scanners showing internal views (col 4, lines 43-55). Cameras 4, 5 are directed at a field including the patient's head H and the probe 1. The orientation and quantification of the camera coordinate data taken from the scan images in the cameras is registered by index spots 8A-C placed on the patient's head. Alternatively, these index spots may be a head ring which is fixed firmly on the patient's skull. When the index spots are in view of the cameras, the appropriate transformations are made by the processor DP based on the coordinates of the index markers which are known

beforehand to the entire dataset (CT or MRI) of anatomy in the memory M. Thus, the reference points are used to relate objects in the camera fields of view to data for combination with the stored anatomical data (col 5, lines 46-62). Additionally, the probe carries two index markers as light sources 2, 3, wherein the cameras sense the orientation of such markers and thus of probe 1. Therefore, the physical position of the probe 1 relative to the interior CT or MRI data is also known. Since light sources 2, 3 are in a predetermined orientation relative to a tip 9 of the probe 1 (defined by object data), the actual physical location of the tip 9 relative to the anatomy may be computed in the processor DP (col 5, line 63-col 6, line 7).

Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Gildenberg (US 5,961,456).

Gildenberg discloses a system and method for displaying concurrent video and reconstructed surgical views including a video camera positioned stereotactically to view a surgical opening in a patient and provide data related to stereotactic space. A video camera provides image data, wherein a surgical view image is compared with a reconstructed image from graphics data. The camera is minimally obtrusive so as to allow the surgeon to view the surgical field by naked eye or by microscopic view. The comparable images in a single display are enabled by tracking and correlating the position of the camera to the patient. Thus, by utilization of stereotactic placement or registration of camera positions and patient anatomy, effective dual images (current actual and reference) may be provided in a single display (col 2, lines 35-62).

Furthermore, reference image 15 may be from CT, MRI, or other internal imaging systems and can be provided in stereotactic space relative to the headring structure R by localizer means (col 3, lines 62-66). When utilizing the microscope referenced above, the microscope M may be referenced to the patient's head by sequentially focusing it on physical markers 50, 51, 52 borne on the patient's head H. Thus, by registering the microscope M with respect to the patient's head H and tracking it, the resulting data, indicating position and orientation relative to the patient's head, enables the formulation of computer graphics data (col 6, lines 35-41).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection. Accordingly, this action is made Non-Final.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL ROZANSKI whose telephone number is (571)272-1648. The examiner can normally be reached on Monday - Friday, 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric F Winakur/  
Primary Examiner, Art Unit 3768

MR